

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
ELKINS**

**AZUMAH NASIVA NAJEE,**  
*Next Best Friend,*

**Plaintiff,**

**GREGORY DAVIS,**

Plaintiff,

**v.**

**CIVIL ACTION NO. 2:11-CV-46  
(BAILEY)**

**FEDERAL BUREAU OF PRISONS,**  
*doing business as*  
**UNITED STATES OF AMERICA**  
*doing business as*  
**UNITED STATES DEPARTMENT OF JUSTICE**  
*doing business as*  
**FEDERAL CORRECTION INSTITUTION GILMER,**

**WARDEN KUMA J. DEBOO,**  
*doing business as*  
**WARDEN OF FEDERAL CORRECTION INSTITUTION GILMER,**

**V. DUPUIS,**  
**CAPTAIN OF FEDERAL CORRECTION INSTITUTION GILMER,**

**ELLEN MACE,**  
*doing business as*  
**DOCTOR OF OSTEOPATHY OF FEDERAL CORRECTION INSTITUTION GILMER,**

**HEALTH SERVICE STAFF,**  
**FEDERAL CORRECTION INSTITUTION GILMER,**

**PERSONAL STAFF,**  
**FEDERAL CORRECTION INSTITUTION GILMER,**

Defendants,

**UNITED STATES OF AMERICA,**

Movant.

### **ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel. By Local Rule, this action was referred to Magistrate Judge Joel for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Joel filed his R&R on January 18, 2012 [Doc. 59]. In that filing, the magistrate judge recommended that this Court do the following: (1) grant the Motions to Dismiss [Docs. 13, 15, and 46]; (2) dismiss as moot the United States of America's Motion to Dismiss Defendants Warden Kuma DeBoo, Captain Vicky Dupuis[,] and Clinical Director Ellen Mace-Liebson and Substitute the United States [Doc. 11]; (3) deny the plaintiff's Motion to Remand [Doc. 39], and (4) dismiss the plaintiff's claims for lack of subject matter jurisdiction [Doc. 59 at 9].

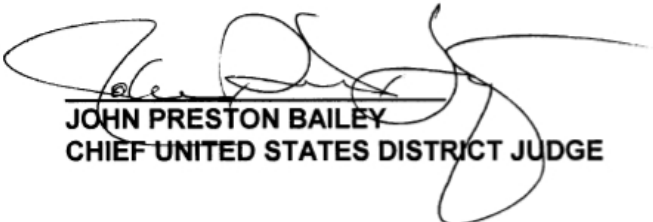
Pursuant to 28 U.S.C. § 636 (b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. **Thomas v. Arn**, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Joel's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b). The docket reflects that service was accepted on January 23, 2012 [Doc. 60]. To date, no objections have been filed.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's Report and Recommendation [**Doc. 59**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby does the following: (1) **GRANTS** the United States' Motion to Dismiss [**Doc. 13**]; (2) **GRANTS** Defendants DeBoo, Dupuis, and Mace-Leibson['s] Motion to Dismiss [**Doc. 15**]; (3) **GRANTS** Federal Defendants' Motion to Dismiss Complaint for Lack of Subject Matter Jurisdiction [**Doc. 46**]; (4) **DISMISSES as moot** the United States of America's Motion to Dismiss Defendants Warden Kuma DeBoo, Captain Vicky Dupuis[,] and Clinical Director Ellen Mace-Liebson and Substitute the United States [**Doc. 11**]; (5) **DENIES** the plaintiff's Motion to Remand [**Doc. 39**], and (6) **DISMISSES** the plaintiff's complaint [**Docs. 1-1, 1-2**] for lack of subject matter jurisdiction. Therefore, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court. The Clerk is directed to enter a separate judgment in favor of the defendants.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

**DATED:** February 15, 2012.

  
JOHN PRESTON BAILEY  
CHIEF UNITED STATES DISTRICT JUDGE